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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,731	08/19/2003	Masamichi Ebata	03500.017487	3791

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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PATEL, CHIRAG R

ART UNIT	PAPER NUMBER
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2141

MAIL DATE	DELIVERY MODE
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06/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/642,731

**Applicant(s)**

EBATA, MASAMICHI

**Examiner**

Chirag R. Patel

**Art Unit**

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Election/Restrictions***

During a telephone conversation with Jennifer Reda (Reg # 57,840) on May 25, 2007 a provisional election was made without traverse to prosecute the invention of Group 1: claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-28 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 rejected under 35 U.S.C. 102(e) as being anticipated by Lazano et al. – hereinafter Lazano (US 7,168,003).

As per claims 1, 10, and 19, Lazano discloses an information processing apparatus that can install multiple control programs capable of performing processing corresponding to a peripheral device and can be connected to the peripheral device, comprising:

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recognition means for recognizing information indicating the model of said peripheral device; (Col 9 lines 55-60)

management means for managing information indicating the versions of multiple control programs that correspond to the model indicated in the information recognized by said recognition means; and (Col 10 lines 24-46)

selection means for selecting the newest version of control program from the versions of control program managed by said management means. (Col 5 lines 49-60)

As per claims 2 and 11, Lazano discloses the information processing apparatus according to claim 1, wherein said control program is capable of performing image processing and control processing that correspond to a peripheral device having a particular function or multiple peripheral devices having different functions. (Col 6 lines 50-65)

As per claims 3 and 12, Lazano discloses the information processing apparatus according to claim 1, wherein said control program comprises notification means for notifying information indicating peripheral device models it supports and information indicating its version in response to a query by said management means. (Col 5 lines 49-60)

As per claims 4 and 13, Lazano discloses the information processing apparatus according to claim 1, wherein said management means manages as

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table data information indicating peripheral device models supported by the control programs, information indicating the versions of the control programs, and identification information for the control programs. (Appendix A)

As per claims 5 and 14, Lazano discloses the information processing apparatus according to claim 1, wherein said management means obtains information indicating peripheral device models supported by said control programs in response to a query by a higher control module, and returns information indicating at least one or more peripheral device models supported by said control programs to the higher control program as information indicating peripheral devices supported by the control programs. (Col 5 lines 49-60)

As per claims 6 and 15, Lazano discloses the information processing apparatus according to claim 1, further comprising setting means for setting a control program selected by said selection means such that the control program can control a corresponding peripheral device. (Col 5 lines 49-60)

As per claims 7 and 16, Lazano discloses the information processing apparatus according to claim 6, further comprising control means for controlling a control program that is not selected by said selection means such that activation of the control program is inhibited. (Col 10 lines 14-46; A test is made at 502 as to which operating system is present on the computer reads on selection mean, If Windows 95 or 98 is found, then at step 506 driver information is obtained using

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the specific application programmer interface calls for those versions of Windows. Otherwise, at step 504 the driver information is read using Windows 2000 A.P.I. calls; the driver that is not selected is inhibited)

As per claims 8 and 17, Lazano discloses the information processing apparatus according to claim 6, further comprising: identification means for identifying a first control program that controls a peripheral device not based on a selection result of said selection and a second control program that controls a peripheral device based on a result of said selection means; and activation control means for performing control such that said first program is activated when said identification means recognizes that said first control program exists. (Col 10 lines 10-46)

As per claims 9 and 18, Lazano discloses the information processing apparatus according to claim 6, wherein said selection means recognizes that a control program can control a peripheral device among peripheral devices supported by the control program when a database file exists that stores control conditions and control variables for the peripheral device (Col 10 lines 10-46).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is

(571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Chirag Patel  
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C.P.

  
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SUPERVISORY PATENT EXAMINER